

REMARKS/ARGUMENTS

In compliance with the requirement in the Interview Summary mailed in the above-captioned application on March 31, 2009, (hereinafter referred to as "the Interview Summary"), that the formal written reply to the last Office Action include the substance of the interview, that substance follows.

Applicant's representative conducted a telephonic interview with the Examiner on March 27, 2009.

During the interview, the Examiner indicated that Applicant's proposed amendment to independent claim 9 providing that the second porous diverging section of hollow frustoconical shape extends immediately from the smaller diameter end of the first tapering section would not be sufficient to prevent him from issuing an obviousness rejection, based upon Frenzl, U.S. Patent No. 3,823,872.

However, he suggested an alternate amendment to independent claim 9 which would prevent him from making either an anticipation rejection or an obviousness rejection based upon Frenzl alone. The Examiner still reserved the right to use Frenzl as a reference in an obviousness rejection, depending upon search results, if Applicant files claim 9, amended as set forth below:

9. (Currently Amended) A double-cone device of continuous geometry for creating a pressure difference in a fluid flowing through the device, the device comprising:
- a. a first tapering section of hollow frustoconical shape;
 - b. a second porous diverging section of hollow frustoconical shape, the first tapering section and the second porous diverging section meeting at a neck at the smaller diameter end of the first tapering section, the second porous diverging section extending from the smaller diameter end of the first tapering section neck, to achieve suction; and
 - c. a third diverging section of hollow frustoconical shape, extending from the larger diameter end of the second porous section.

With regard to the disclosure being objected to for certain informalities in the Office Action, the Examiner indicated that he would withdraw this objection based upon the remarks appearing below.

The Examiner brought up another issue which, he indicated, may lead to a problem of new matter. In particular, the Examiner wished to know why Applicant eliminated the lower conduit, originally shown in Fig. 1 and labeled 108, in replacement Fig. 1 filed along with the

Supplemental Amendment in the above-captioned application on September 25, 2008, (hereinafter “the Supplemental Amendment”). Applicant’s representative could not immediately respond since Applicant’s representative had not studied this issue before the interview.

However, the Examiner and Applicant’s representative agreed on a possible solution to this problem involving adding back the lower conduit, which was labeled 108 in originally filed Fig. 1, with no labeling.

A replacement sheet for Fig. 1 is enclosed for the approval of the Examiner proposing to amend Fig. 1 pursuant to the agreement in the interview conducted on March 27, 2009 set forth above.

The Examiner stated in the Substance of Interview section of the Interview Summary that, “The examiner notes that the term ‘neck’ is not disclosed in the specification but is clearly shown in figures 3, 4, and 5. The ‘neck’ contemplated corresponds to the section of the double cone device 300, 400, and 500 designated as 308, in figure 3 and 506 in figure 5,” (Interview Summary, Continuation Sheet, lines 12-15). Applicant disagrees that these matters were discussed during the interview.

Claims 1-15 are pending, but claims 1-8 and 13-15 have been withdrawn from consideration.

The disclosure was objected to for certain informalities, namely the insertion of reference number 114 at page 2, line 8, of the specification, and reference number 312 at page 9, line 6, of the specification, by the Amendment filed in the above-captioned application on August 14, 2008. The Examiner alleges that reference numbers 114 and 312 do not appear in any prior or replacement figures. Reconsideration of this objection is respectfully requested.

Applicant respectfully disagrees with the Examiner’s contention. On the contrary, reference numeral 114 appears in the replacement sheet for Fig. 1 enclosed with the Supplemental Amendment. In addition, reference numeral 312 appears in Fig. 3 of the drawings.

Claim 9 was rejected under 35 U.S.C. §112, second paragraph. Reconsideration of the rejection is respectfully requested.

Claim 9 has been amended to overcome the rejection.

Claim 9 was rejected under 35 U.S.C. §102(b) as being anticipated by Frenzl, U.S. Patent No. 3,823,872. Reconsideration of the rejection is respectfully requested.

Claims 10-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Frenzl. Reconsideration of the rejection is respectfully requested.

Claim 9 has been amended pursuant to the amendment of claim 9 proposed by the Examiner in the interview of March 27, 2009 and set forth above, except that clarifying amendments have also been made as specified below. Antecedent basis for the amendments made to independent claim 9, pursuant to the Examiner's proposal, is found in the specification, for example, on page 7, lines 10-29, and in the drawings, for example, in Fig. 3.

Claim 9 has been further amended to clarify that each of the sections of the double-cone device has an interior space of hollow frustoconical shape, that the smaller diameter end of the first tapering section, referred to in the claim before amendment herein, is the smaller diameter end of the interior space of the first tapering section, and that the larger diameter end of the second porous section, referred to in the claim before amendment herein, is the larger diameter end of the interior space of the second porous section. Antecedent basis for these clarifying amendments is found in the drawings, for example, in Figs. 3-5.

To support the Examiner's indication that amendment of independent claim 9, pursuant to the proposal of the Examiner in the telephonic interview of March 27, 2009, at least overcomes the outstanding rejection, argument follows.

In support of the rejection of independent claim 9, the Examiner alleges that, "Frenzl teaches ... a first tapering section 2a of hollow frustoconical shape, a second porous diverging section (18, 22) of hollow frustoconical shape extending from the smaller diameter end 3a (as the distal end of element 3a has a smaller diameter than [sic] the front edge of element 2a defined at frontal edge of the block defined by element 17) of the first tapering section 2a," (Office Action, page 3, paragraph 8, lines 2, 4-8).

Based upon the portion of the Office Action quoted above justifying the rejection of independent claim 9, the Examiner contends that elements 18, 22 of Frenzl are equivalent to the second porous diverging section of hollow frustoconical shape of independent claim 9, and that element 2a of Frenzl is equivalent to the first tapering section of hollow frustoconical shape of independent claim 9. The Examiner further alleges that the second porous diverging section 18, 22 in Frenzl extends from the smaller diameter end 3a of the first tapering section 2a. However, from Fig. 1 of Frenzl, it can be seen that element 3a, which is actually neck 3a, (column 5, line 17), intervenes between element 2a, alleged to be first tapering section, which is converging cone

2a, (column 5, line 17), and alleged second porous diverging section equivalent to an upstream portion of short length 18 of the diverging cone 4a, (column 5, lines 18-19), and an intermediate zone 22 of the diverging portion, (column 5, lines 21-22). Thus, the actual smaller diameter end of alleged first tapering section 2a is spaced away from alleged second porous diverging section 18, 22.

In contrast, independent claim 9, as amended, provides that the second porous diverging section extends from a neck, the first tapering section and the second porous diverging section meeting at the neck at the smaller diameter end of the interior space of the first tapering section.

Since each of claims 10-12 is directly dependent upon independent claim 9, each of claims 10-12 is allowable for at least the same reasons recited above with respect to the allowability of independent claim 9.

In view of the foregoing amendments and remarks, allowance of claims 9-12 is respectfully requested.

Respectfully submitted,

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SYSTEM ON May 1, 2009.

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